

**LICENSING PROCEDURES
AND INFORMATION
FOR
INSURANCE CONSULTANTS**

April 2010

GENERAL INFORMATION

The 1987 Virginia General Assembly passed legislation regarding the regulation of financial planners. The law, effective July 1, 1987, combined regulation of investment advisors through the SCC's Division of Securities and Retail Franchising and insurance consultants through the SCC's Bureau of Insurance (Bureau). Anyone interested in obtaining information on the investment advisors portion should call the Division of Securities at 804-371-9051. A brief synopsis of the insurance consultant provision is set out below.

Who is considered to be an insurance consultant under the law?

Under Virginia law (§ 38.2-1838), anyone who, for a fee, advises or offers or purports to advise in the area of life and health insurance or property and casualty insurance is required to be licensed as an insurance consultant. The only exemptions are:

- A. A licensed attorney acting in his professional capacity,
- B. A trust officer of a bank acting in the normal course of his/her employment,
- C. An actuary or certified public accountant who consults during the normal course of his/her business, and
- D. Any person employed as a risk manager and who consults for his/her employer only.

The key to the definition is “for a fee,” which is separate and distinct from commissions received by a licensed insurance agent or surplus lines broker resulting from selling, soliciting, or negotiating, or insurance or health care services as allowed by his/her license. In other words, an insurance agent acting in his/her professional capacity who advises an insured or prospective insured in the area of insurance or health care services and receives a commission only upon sale does not come under the auspices of insurance consultant. However, as soon as a fee for the consulting services is implemented, whether or not the consultant is a licensed insurance agent and whether or not a commission is received, the definition of insurance consultant applies and licensing is required.

Does a financial planner have to be licensed as an insurance consultant if a licensed insurance agent or insurance consultant prepares the insurance portion of the client's plan but the plan is presented to the client by the financial planner himself who is receiving a fee for the overall plan?

That depends. If the financial planner merely provides the client with the plan that was prepared by someone else appropriately licensed, then he/she is not advising, and a license is not required.

However, once the presentation becomes an explanation of options, then insurance knowledge is necessary and licensure is required. If the planner's presentation includes a recommendation of one insurance plan or option, either an insurance consultant's or an insurance agent's license is required. The consultant's license is required if the recommendation of a specific insurance option or plan is part of the overall plan recommended, but no commission for the sale of that insurance is received. If commission is received from the sale of an insurance product, including indirectly sharing commissions or any other compensation received by an insurance agent who ultimately sells an insurance product to your client, the financial planner **MUST** also be licensed as an insurance agent.

What are the license renewal requirements?

The license will be in effect for up to one year depending upon when it is issued. It must be renewed prior to June 30 of each calendar year. The Bureau will mail a renewal notification to the insurance consultant in April. Renewals must be submitted to the Bureau on or before **June 1** of each year in which the license will expire and can be submitted online at www.scc.virginia.gov/division/boi/webpages/boiproducer.htm. No matter when the license was issued, it must be renewed prior to June 30. A criminal history record report is **not** required during the renewal period.

Is there a bond requirement?

No.

Are there any other requirements?

Yes. An insurance consultant must enter into a written contract with his/her client prior to engaging in any consultant activity. The contract must include, without limitation, the amount and basis of any consulting fee and the duration of employment. If the insurance consultant may receive commissions for selling, soliciting, or negotiating insurance as a part of his/her services in addition to a consulting fee, such information must also be disclosed in the contract. The consultant is subject to all laws and regulations pertaining to insurance agents and their practices.

One final caution

Rebating by an insurance consultant is prohibited and could be grounds for refusal, suspension or revocation of an insurance consultant's license as well as monetary penalties of up to \$5,000 for each violation. The term "rebating" includes waiving or reducing the fee or compensation for consulting services for the purpose of inducing a client or potential client to purchase a policy, or waiving or reducing commission on the sale of insurance to a consulting client.

LICENSING PROCEDURES

There are two types of licenses available:

LIFE AND HEALTH INSURANCE CONSULTANT PROPERTY AND CASUALTY INSURANCE CONSULTANT

If you wish to consult in both fields, you must apply for both licenses.

I. Licensing of Individuals

In order to be authorized to act as either a Life and Health Insurance Consultant or a Property and Casualty Insurance Consultant:

NOTE: If you are already a licensed Life and Annuities and Health agent or Property and Casualty agent, go to Step C.

A. **YOU** must be at least 18 years of age and either a citizen of the United States or authorized to work in the United States (Virginia residents must provide work authorization documentation).

B. **RESIDENTS** must follow the procedures outlined in the Insurance Licensing Candidate Handbook at <http://www.asisvcs.com/indhome.asp?CPCAT=1253INS> for passing of the examination for Life and Health or Property and Casualty Insurance, and then proceed with Step C.

C. Apply online at <http://scc.virginia.gov/division/boi/webpages/boiproducer.htm>.

D. **Resident applicants only** must fax a current Criminal History Record Report to 804-371-9290. A criminal history record report may be obtained by contacting the Virginia State Police at 804-674-2000 or you may download the form (SP-167) from its website at <http://www.vsp.state.va.us/>. **If you fail to provide a current (no more than 90 days old) criminal history record report, the Bureau will refuse to issue a license to you.**

In addition to the application, **nonresident applicants** must be licensed or otherwise authorized as an insurance consultant in their home state or province or where their principal place of business is located. **If a nonresident applicant's home state does not issue insurance consultant licenses, the nonresident applicant must hold a Life and Health license in their home state to qualify for a Life and Health Consultant license and/or a Property and Casualty license in their home state to qualify for a Property and Casualty Consultant license.** The Bureau will verify nonresident licensing through the NAIC's Producer Data Base (PDB). If the resident state does not participate in the PDB, a letter of certification (no more than 90 days old) will be required.

E. Effective March 15, 2010, the Bureau of Insurance no longer mails licenses. Administrative Letter 2010-02 provides instructions for verifying the license has been issued and printing the license online. The Administrative Letter may be reviewed at <http://scc.virginia.gov/division/boi/webpages/boiadminltrsforagents.htm>.

II. Licensing partnerships, corporations, or limited liability companies

In the event that a partnership, corporation or limited liability company renders insurance advice as a consultant in its capacity as a partnership, corporation, or limited liability company and receives a fee for that advice, it must obtain an Insurance Consultant's license. In addition, each active partner and employee in a partnership must be licensed if he/she is to be an insurance consultant; and each officer, director, or employee of a corporation or a limited liability company must be licensed if he/she is to be an insurance consultant.

If the partnership, corporation, or Limited Liability Company is also in any way in the business of selling, soliciting, or negotiating insurance and receiving commissions, insurance agency licensing requirements must also be met.

Licensing of a partnership, corporation, or limited liability company does not convey any rights to the individuals involved. Each individual must apply for licensing in the normal manner.

NOTE: If a financial planner/insurance consultant is also selling in the area of securities, he/she must also contact the Division of Securities of the State Corporation Commission of Virginia with regard to additional registration requirements. The Division of Securities may be reached at (804)371-9051.

A. A foreign corporation, partnership, or limited liability company seeking a consultant license may apply online through NIPR at <http://scc.virginia.gov/division/boi/webpages/boiproducer.htm>.

B. A business entity is not required to first obtain a certificate of authority, including a certificate of registration, certificate of organization, certificate of limited partnership, or charter, from the Commission prior to being eligible to obtain a license as an insurance agent, consultant, surplus lines broker, or viatical settlement broker. **However, the business entity must still obtain the necessary certificate of authority within 90 days of licensure. A failure to obtain that certificate of authority may result in the Bureau of Insurance terminating the producer license.** Contact the Clerk's Office at 804-371-9733 for details.

C. The business entity must have a Designated Responsible Licensed Producer (DRLP) who is responsible for the business entity's compliance with the insurance laws, rules and regulations of the Commonwealth of Virginia. The DRLP must be licensed and his/her information must have been reported to the PDB prior to applying for a business entity license. A licensed agency may update its firm associations online at scc.virginia.gov/division/boi/webpages/boiproducer.htm.

D. Virginia law (§ 38.2-1845) allows the Bureau to issue a nonresident consultant license to a corporation, limited liability company or partnership only if the state of domicile of the corporation, limited liability company or partnership would issue a similar license to a Virginia corporation, limited liability company or partnership.

The Bureau will verify nonresident licensing through the NAIC's Producer Data Base (PDB). If the resident state does not participate in the PDB, a letter of certification (no more than 90 days old) will be required.

E. Effective March 15, 2010, the Bureau of Insurance no longer mails licenses. Administrative Letter 2010-02 provides instructions for verifying the license has been issued and printing the license online. The Administrative Letter may be reviewed at <http://scc.virginia.gov/division/boi/webpages/boiadminltrsforagents.htm>.

CONTINUING EDUCATION

Virginia has a biennial Continuing Education (CE) requirement for all agents holding one or more of the following license types:

- Life and Annuities
- Health
- Life and Health Consultant**
- Personal Lines
- Property and Casualty
- Property and Casualty Consultant**
- Title

The CE program in Virginia is NOT administered by the Bureau. A separate entity, known as the Virginia Insurance Continuing Education Board, is responsible for development and administration of the CE program. The Board, in turn, has contracted with Pearson VUE for operation of the program.

For further information on Virginia's CE program, including reciprocity information, or to obtain a copy of Virginia's Continuing Education Information Handbook, visit the CE Board's website at www.virginiainsurancece.com or call 1-877-234-6092. Questions regarding the Virginia CE program should be directed to Pearson VUE at virginiainsurancece@pearson.com; **NOT** to the Bureau of Insurance.

Nonresident agents are not required to complete Virginia CE courses; however, they are required to pay a \$15 continuance fee, which may be paid online at www.virginiainsurancece.com.

MISCELLANEOUS

I. Address Changes

Every licensed producer is required by law to notify the Bureau within 30 calendar days of any change of residence. You should change your address online at <http://scc.virginia.gov/division/boi/webpages/boiproducer.htm>. DO NOT USE A COMPANY OR ANY BUSINESS ADDRESS (INCLUDING PO BOX) AS THE INDIVIDUAL PRODUCER'S RESIDENCE OR MAILING ADDRESS.

Any licensed agent or consultant who has moved his/her residence from this Commonwealth shall have all licenses terminated by the Commission.

II. Name Changes

Every licensed producer is required by law to notify the Bureau in writing within 30 calendar days of any change of name. These changes can be made by downloading and properly completing the Bureau's Service Request Form (5001) at <http://scc.virginia.gov/division/boi/webpages/boiformsapplications.htm>.

A copy of the marriage certificate, divorce decree, or court order is required. Please include your Virginia License Number or National Producer Number (NPN) with your request. You must sign the request. The Bureau will send you a duplicate license when we have processed your name change.

III. Certifications

Based upon the national initiative for uniformity of state insurance regulation, most states no longer require certification letters. Also, insurance companies may confirm the status of a producer's license on the NAIC's Producer Data Base (PDB), or on the Bureau's website at <http://scc.virginia.gov/division/boi/webpages/ConsumerInquiry/ProducerSearch.aspx>. Therefore, certification letters should not be required under most circumstances. However, if you should need a certification letter, you may obtain it online at www.sircon.com/virginia. You will be able to request and print your own certification letter from this site.

IV. Clearance Letters

Clearance letters must be requested by the consultant, and submitted to the Bureau of Insurance on the Service Request (5001) Form. The request must include their Virginia License Number or National Producer Number (NPN), their new residence address, and the state the consultant is moving to. The consultant must sign the request. All licenses and appointments will be terminated when the clearance is processed. The form may be downloaded from <http://scc.virginia.gov/division/boi/webpages/boiformsapplications.htm>

V. Felony Conviction

An agent (resident or nonresident) is required by law to report to the Bureau of Insurance within 30 calendar days the facts and circumstances regarding a conviction of or pleading guilty or nolo contendere to any felony offense.

VI. Administrative Actions

An agent (resident or nonresident) is required by law to report to the Bureau of Insurance within 30 calendar days the final disposition, to include a copy of the order, consent to order, and/or other relevant legal documents, of any administrative action taken against him in another jurisdiction or by another governmental agency. The reporting of administrative actions maybe submitted to the Bureau electronically through the NIPR's Attachment Warehouse – Reporting of Actions at <https://pdb.nipr.com/roa/jsp/roa/roaterms.jsp>.

The above information is not intended to be all-inclusive. If you have any questions or problems not addressed here, please contact the Bureau at bureauofinsurance@scc.virginia.gov or visit our website shown below.

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